

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA**

BROOKE BOGGS,

Plaintiff,

v.

A RESTAURANT GROUP, L.L.C.,

Defendant.

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CASE NO.: 1:25-CV-00226

MOTION TO SET ASIDE DEFAULT JUDGMENT

Pursuant to Rules 55(c) of the Federal Rules of Civil Procedure, Defendant moves to set aside the Default Judgment entered in this matter on August 21, 2025. As grounds for this motion Defendant asserts its own, inadvertence, surprise and excusable neglect as set out below.

1. Defendant, A Restaurant Group, Inc., is an Alabama Corporation formerly owned by Mark Frohlich (Frohlich).
2. In 2024 Frohlich sold the company to Darin Smith (Smith).
3. Following the sale, both Frohlich and Smith forgot to notify the Alabama Secretary of State to change the registered agent, from Frohlich to Smith, for purposes of service of process.
4. As a result, Frohlich was served with Plaintiff's Summons and Complaint on June 11, 2025, failed to recognize its importance and failed to deliver the complaint to Smith until early August, 2025.
5. Smith retained undersigned counsel on August 20, 2025.
6. Counsel attempted to file Defendant's Answer on August 21, 22 and 25, but was unable to login to his PACER Account and was unable to reach a PACER representative by phone until August 26th.
7. Defendant filed its Answer on August 26 and denied all of the factual allegations giving rise to Plaintiff's claims.
8. Plaintiff will not be unduly burdened and justice will better served by setting aside the

August 21 Default.

WHEREFORE, PREMISES CONSIDERED, Defendant prays this motion be granted and the Order of Default and Clerks Entry of Default both be set aside.

Dated: August 28, 2025

Respectfully submitted,

_____/s/ T. Deven Moore (Moo061)____

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of this Answer was duly served upon counsel noted below via ECF, this 28th day of August, 2025.

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_____/s/ T. Deven Moore (Moo061)____